

Introduced: 2/12/79
Referred: Labor & Management and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 177

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to unemployment insurance; and pro-
7 viding for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 23.20.045(b) is amended to read:

10 (b) Special rules may be adopted, amended, or rescinded by the
11 department only after public hearing or opportunity to be heard on
12 them, of which proper notice has been given. A special rule becomes
13 effective 30 days after notification to or mailing to the last [KNOWN]
14 address of record of the persons affected by it.

15 * Sec. 2. AS 23.20.110 is amended by adding a new subsection to read:

16 (e) Upon request of an agency of this or another state which
17 administers or operates a state plan for aid and services to needy
18 families with children approved under Part A of Title IV of the
19 Social Security Act, the department shall provide wage information
20 which is necessary (as determined under regulations of the Secretary
21 of Health, Education and Welfare) for the purposes of determining an
22 individual's eligibility for aid or services, or the amount of that
23 aid or those services.

24 * Sec. 3. AS 23.20.115 is amended to read:

25 Sec. 23.20.115. UNAUTHORIZED DISCLOSURE OF INFORMATION. A
26 member of the department, [OR] an employee of the department, or an
27 agent of the department who, in violation of sec. 110 of this chapter,
28 makes a disclosure of information obtained from an employing unit or
29 from an individual in the administration of this chapter, or a person

1 who has obtained a list of applicants for work or of claimants or
2 recipients of benefits under this chapter and who uses or permits the
3 use of the list for a purpose not authorized by sec. 110 of this
4 chapter, upon conviction, is punishable by a fine of not more than
5 \$200, or by imprisonment for not more than 90 days, or by both.

6 * Sec. 4. AS 23.20.130(b)(9) is amended to read:

7 (9) reimbursement of benefits paid under secs. 277 and [,]
8 278 [AND 326] of this chapter, and reimbursement of benefits paid
9 under sec. 326 of this chapter as it read prior to January 1, 1978; and

10 * Sec. 5. AS 23.20.135 is amended to read:

11 Sec. 23.20.135. ACCOUNTS AND DEPOSIT. (a) The commissioner of
12 revenue is ex officio the treasurer and custodian of the fund and
13 shall administer it as directed by the department. Checks or warrants
14 shall be issued on the fund in accordance with the regulations which
15 the department prescribes. The [COMMISSIONER OF REVENUE SHALL MAIN-
16 TAIN WITHIN THE] fund has three separate accounts:

- 17 (1) a clearing account;
18 (2) an unemployment trust fund account; and
19 (3) a benefit account.

20 (b) The department, or its designee, [SHALL FORWARD, UPON
21 RECEIPT, ALL MONEY PAYABLE TO THE FUND TO THE COMMISSIONER OF REVENUE
22 WHO] shall immediately deposit, upon receipt, all money payable to the
23 fund [THEM] in the clearing account. Refunds of contributions errone-
24 ously collected and payable under secs. 225 and 526(a)(11) [525(c)(11)]
25 of this chapter may be paid from the clearing account in the same
26 manner, if they were deposited in the unemployment compensation fund,
27 or from the training and building fund; however, interest and penalty
28 payments collected on and after June 30, 1969 may not be refunded from
29 the unemployment compensation fund. After clearance, all money in the

1 clearing account shall be immediately deposited with the Secretary of
2 the Treasury of the United States to the credit of the account of this
3 state in the unemployment trust fund, established and maintained under
4 sec. 904 of the Social Security Act, as amended.

5 (c) The benefit account consists of money requisitioned from
6 this state's account in the unemployment trust fund for the purpose of
7 paying benefits. Money in the clearing and benefit accounts may be
8 deposited by the department's designee [COMMISSIONER OF REVENUE],
9 under the direction of the department, in a bank or public depository
10 in which general funds of the state may be deposited, but no public
11 deposit insurance charge or premium may be paid out of the fund.
12 Money in these accounts may not be commingled with other state funds,
13 but shall be maintained in separate accounts on the books of the
14 depository bank. The money is secured by the depository law of this
15 state. Collateral pledged for this purpose shall be kept separate and
16 distinct from collateral pledged to secure other funds of the state.
17 The commissioner of revenue is liable on his official bond for the
18 faithful performance of his duties in connection with the fund. Sums
19 recovered for losses sustained by the fund shall be deposited in the
20 fund.

21 * Sec. 6. AS 23.20.145(b) is amended to read:

22 (b) The department shall from time to time requisition from the
23 unemployment trust fund amounts not exceeding the amounts standing to
24 the state's account in the fund which it considers necessary for the
25 payment of benefits for a reasonable future period. Upon receipt of
26 an amount the department [COMMISSIONER OF REVENUE] shall deposit the
27 money to the benefit account. A check or warrant for the payment of
28 benefits may be issued solely from the benefit account.

29 * Sec. 7. AS 23.20.145(c) is amended to read:

1 (c) If money in the clearing account is not sufficient to provide
2 for refunds of contributions erroneously collected and payable under
3 secs. 225 and 526(a)(11) of this chapter, the department shall with-
4 draw from the unemployment trust fund the amounts not exceeding the
5 amount standing to this state's account in the fund which are necessary
6 for the payment of the refunds, if the erroneously collected interest
7 and penalties were deposited and retained in the unemployment compensa-
8 tion fund, but no amounts may be withdrawn from the unemployment trust
9 fund for the refund of interest and penalty payments collected on and
10 after June 30, 1969. Upon receipt the department, or its designee,
11 [COMMISSIONER OF REVENUE] shall deposit this money to the clearing
12 account. A check or warrant for the payment of a refund shall be
13 issued from the clearing account.

14 * Sec. 8. AS 23.20.205(b) is amended to read:

15 (b) If the notice is served by mail the notice must be deposited
16 in the post office, addressed to the delinquent employer at his last
17 [KNOWN] address of record and the postage paid. The date of service
18 is considered to be the day of delivery shown on the delivery receipt.
19 However, if it appears the addressee is deliberately avoiding service,
20 then the date of service is the day of mailing.

21 * Sec. 9. AS 23.20.277(h) is amended to read:

22 (h) The amount due, specified in a bill from the department, is
23 conclusive on the organization unless, not later than 15 days after
24 the bill was mailed to its last [KNOWN] address of record or otherwise
25 delivered to it, the organization files an application for redetermi-
26 nation by the department, setting out the grounds for the application.
27 The department shall promptly review and reconsider the amount due
28 specified in the bill and shall thereafter issue a redetermination in
29 any case in which an application for redetermination has been filed.

1 Any redetermination is conclusive on the organization unless, not
2 later than 15 days after the redetermination was mailed to its last
3 [KNOWN] address of record or otherwise delivered to it, the organiza-
4 tion files an appeal to the commissioner, setting out the grounds for
5 the appeal. Proceedings on appeal to the commissioner from the amount
6 of a bill rendered under this subsection or a redetermination of the
7 amount shall be in accordance with the provisions of secs. 410 - 470
8 [455] of this chapter.

9 * Sec. 10. AS 23.20.277(1) is amended to read:

10 (1) Each employer that is liable for payments in place of contri-
11 butions shall pay to the department for the fund the amount of regular
12 benefits plus the amount of one-half of extended benefits paid that
13 are attributable to service in the employ of that [SUCH AN] employer.
14 However, a government entity which has elected to make payments under
15 this section is liable for the amount of regular benefits plus the
16 full amount of extended benefits which are attributable to service in
17 the employ of that entity. If benefits paid to an individual are
18 based on wages paid by more than one employer and one or more of these
19 employers are liable for payments in place of contributions, the
20 amount payable to the fund by each employer that is liable for payments
21 shall be determined by the department in accordance with regulations
22 adopted [PROMULGATED] by the department.

23 * Sec. 11. AS 23.20.280(a) is amended to read:

24 (a) An employer is [AND HIS EMPLOYEES ARE] eligible for a rate
25 determination in accordance with the provisions of secs. 280 - 310 of
26 this chapter and the department's [COMMISSIONER'S] regulations if the
27 employer has been subject to this chapter throughout not less than the
28 four consecutive calendar quarters ending with the computation date
29 and remains subject to this chapter into the calendar quarter which

1 immediately precedes the effective date of the rate. No employer [OR
2 EMPLOYEE] is eligible for a rate determination under secs. 280 - 310
3 of this chapter if, with respect to a calendar quarter in or preceding
4 his qualifying period, the employer has failed to file contribution or
5 payroll reports or to pay contributions, interest and penalties
6 required by this chapter within 60 days after the computation date or
7 within 10 days after the department has mailed the employer written
8 notice of the delinquency or of failure to file reports, or of both,
9 by registered or certified mail to his last [KNOWN] address of record,
10 whichever is the later date.

11 * Sec. 12. AS 23.20.305(a) is amended to read:

12 (a) The department shall promptly notify each employer of his
13 rate of contributions as determined for a calendar year under secs.
14 280 - 310 of this chapter. The determination becomes conclusive upon
15 the employer unless within 15 days after the notice is mailed to his
16 last [KNOWN] address of record or delivered to him, the employer files
17 an application for review and redetermination, setting out his reasons
18 for the application.

19 * Sec. 13. AS 23.20.305(c) is amended to read:

20 (c) If the commissioner denies a review, he shall notify the
21 employer of the denial and the reasons for the denial. A redetermina-
22 tion or a denial of review becomes final, unless within 30 days after
23 the notice is mailed to the last [KNOWN] address of record of the
24 employer, or delivered to him, the employer initiates [PETITION FOR]
25 judicial review [IS FILED] in accordance with sec. 445 of this chapter.

26 * Sec. 14. AS 23.20.315(c) is amended to read:

27 (c) The department shall mail or deliver a notice of its determi-
28 nation made under (a) or (b) of this section to the last [KNOWN]
29 address of record of the employing unit affected. The notice shall

1 include a statement of the supporting facts found by the department.

2 * Sec. 15. AS 23.20.315(d) is amended to read:

3 (d) Within 15 days after a notice of a determination has been
4 mailed or delivered to the last [KNOWN] address of record of an
5 employing unit, the employing unit may apply to the department to
6 reconsider its determination in the light of additional evidence and
7 to issue a redetermination. The department shall, if the request is
8 granted, mail or deliver to the last [KNOWN] address of record of
9 the employing unit affected a notice of the redetermination. The
10 notice shall include a statement of the supporting facts found by
11 the department. If the department denies the request for redetermina-
12 tion, it shall furnish a notice of the denial of the application.

13 * Sec. 16. AS 23.20.315(e) is amended to read:

14 (e) Within 15 days after a notice of a determination made
15 under (a), (b), or (d) of this section or a denial of the applica-
16 tion under (d) of this section has been mailed or delivered to the
17 last [KNOWN] address of record of an employing unit, the employing
18 unit may appeal from the determination to the department. The depart-
19 ment shall give the parties a reasonable opportunity for a fair
20 hearing as provided in the case of hearings before appeal tribunals
21 in secs. 410 - 470 of this chapter. The decision of the department
22 is final unless, within 30 days after the decision is mailed or
23 delivered to the last [KNOWN] address of record of a party, the
24 party initiates judicial review in accordance with sec. 445 of this
25 chapter.

26 * Sec. 17. AS 23.20.340(a) is amended to read:

27 (a) An examiner designated by the department shall take the
28 claim. The examiner shall take all evidence pertaining to the monetary
29 eligibility of the claimant and [AN INITIAL DETERMINATION ON THE CLAIM

1 SHALL BE MADE PROMPTLY AND SHALL INCLUDE A DETERMINATION WITH RESPECT
2 TO WHETHER BENEFITS ARE PAYABLE, THE WEEKLY BENEFIT AMOUNT PAYABLE,
3 AND THE MAXIMUM DURATION OF BENEFITS. WHEN THE PAYMENT OR DENIAL OF
4 BENEFITS IS DETERMINED BY SEC. 380(9) OF THIS CHAPTER, THE EXAMINER]
5 shall promptly transmit all evidence [WITH RESPECT TO THAT SECTION] to
6 the department. The department or a representative designated by it
7 for the purpose, shall, on the basis of the evidence submitted and any
8 [THE] additional evidence it requires, make an initial monetary deter-
9 mination of [AS TO] the claim as to whether the claimant is eligible
10 for benefits under sec. 350 of this chapter and the weekly benefit
11 amount and maximum potential benefit amount.

12 * Sec. 18. AS 23.20.340(b) is amended to read:

13 (b) Within one year from the date of the initial monetary deter-
14 mination, the department, on its own motion, may reconsider the monetary
15 determination if it finds an error in computation or identity or finds
16 that additional wages pertinent to the claimant's insured status have
17 become available, or that the initial monetary determination is a
18 result of a nondisclosure or misrepresentation of a material fact.

19 * Sec. 19. AS 23.20.340(c) is amended to read:

20 (c) The claimant [AND OTHER PARTIES TO THE DETERMINATION] shall
21 be promptly notified of the initial monetary determination or a sub-
22 sequent monetary redetermination [(OR OF AN AMENDED INITIAL DETERMINA-
23 TION)] and the reasons for it.

24 * Sec. 20. AS 23.20.340(d) is amended to read:

25 (d) Unless the claimant is determined to be disqualified for
26 benefits under secs. 375, 380 and 381 of this chapter, benefits [BENE-
27 FITS] shall be promptly paid [OR DENIED] in accordance with the initial
28 monetary determination or subsequent redetermination.

29 * Sec. 21. AS 23.20.340(a) is repealed and re-enacted to read:

1 (e) The claimant may file a request for redetermination of the
2 initial monetary determination within 15 days after personal notifica-
3 tion of the determination, or after the date the notice is mailed to
4 his last address of record. The claimant may file an appeal from a
5 monetary redetermination within 15 days after personal notification of
6 the redetermination or after the date the redetermination is mailed to
7 his last address of record. The period for filing an appeal may be
8 extended for a reasonable period of time upon a showing that the
9 application was delayed as a result of circumstances beyond the claim-
10 ant's control.

11 * Sec. 22. AS 23.20.340(f) is repealed and re-enacted to read:

12 (f) If a determination of disqualification under secs. 375, 380
13 and 381 of this chapter is made, the claimant shall be promptly
14 notified of the determination and the reasons for it. The claimant
15 may appeal the determination in the same manner prescribed in this
16 chapter for appeals of monetary redeterminations. Benefits may not be
17 paid for any weeks with respect to which the determination of dis-
18 qualification was made while a determination is being appealed. How-
19 ever, if a decision on the appeal allows benefits to the claimant,
20 those benefits must be paid promptly.

21 * Sec. 23. AS 23.20.408(g) is repealed and re-enacted to read:

22 (g) There is a state "off" indicator for a week if, for the
23 period consisting of that week and the immediately preceding 12 weeks,
24 the rate of insured unemployment was either (1) less than four per
25 cent; or (2) less than five per cent and was less than 120 per cent of
26 the average of the rates of insured unemployment for the corresponding
27 13-week period in each of the preceding two calendar years.

28 * Sec. 24. AS 23.20.430 is amended to read:

29 Sec. 23.20.430. NOTICE OF DECISION AND TIME FOR APPEAL. After

1 a hearing an appeal tribunal shall promptly make findings and conclu-
2 sions and on the basis of them shall affirm, modify, or reverse the
3 determination. Each party shall be promptly given a copy of the
4 decision, the supporting findings and the conclusions. This decision
5 is final unless further review is initiated under sec. 435 of this
6 chapter within 15 [10] days after the decision is mailed to each party
7 at his last [KNOWN] address of record or delivered to him. The period
8 within which further review may be initiated may be extended for a
9 reasonable period of time upon a showing that the application was
10 delayed as a result of circumstances beyond the party's control [GOOD
11 CAUSE].

12 * Sec. 25. AS 23.20.445 is amended to read:

13 Sec. 23.20.445. NOTICE OF DECISION OF DEPARTMENT AND JUDICIAL
14 REVIEW. Each party, including the properly designated representative
15 of the department, shall be promptly given a copy of the decision and
16 the supporting findings and conclusions of the department. The
17 decision is final unless a party initiates judicial review by filing
18 an appeal [ACTION] in the superior court as provided in the applicable
19 Rules of Appellate Procedure of the State of Alaska [FOR REVIEW WITHIN
20 30 DAYS AFTER THE DEPARTMENT'S DECISION HAS BEEN MAILED TO EACH PARTY
21 AT HIS LAST KNOWN ADDRESS, OR DELIVERED TO HIM]. For the purpose of
22 judicial review, an appeal tribunal's decision from which an application
23 for appeal has been denied by the department is considered the decision
24 of the department, except that the time for initiating judicial review
25 runs from the date of the mailing or delivery of the notice of the
26 denial of the application for appeal by the department.

27 * Sec. 26. AS 23.20.520(21) is amended to read:

28 (21) "waiting week" means the first week of unemployment
29 for which an individual files a claim during his benefit year and for

1 which no disqualification is imposed under secs. 375, 380 and 381 of
2 this chapter [OCCURRING IN A BENEFIT YEAR];

3 * Sec. 27. AS 23.20.525(a)(5) is amended to read:

4 (5) service performed before January 1, 1978 in the employ
5 of a political subdivision of this state or a wholly owned instrumental-
6 ity of a political subdivision of this state, if coverage was elected
7 under sec. 325 [OR SEC. 326] of this chapter or if coverage was elected
8 under sec. 326 of this chapter as it read prior to January 1, 1978;

9 * Sec. 28. AS 23.20.525(a)(16)(C)(ii) is amended to read:

10 (ii) if that individual is not an employee of
11 that other person within the meaning of paragraph (10) [(A)]
12 of this subsection [PARAGRAPH];

13 * Sec. 29. Chapter 122, sec. 27(a), SLA 1977 is amended to read:

14 (a) Notwithstanding the provisions of AS 23.20.350, benefits may
15 be paid to an individual after December 31, 1977 on wages earned by
16 that individual in a category of employment which was not covered
17 under AS 23.20 at any time during calendar year 1975 and which was
18 service which is covered under AS 23.20, effective January 1, 1978, as
19 the result of enactment of sec. 18 [19] of this Act.

20 * Sec. 30. AS 23.20.340(g) and 23.20.526(a)(19) are repealed.

21 * Sec. 31. Sections 1, 8, 9, 11 - 22, 24 - 26 and 30 of this Act take
22 effect on July 1, 1979.

23 * Sec. 32. Sections 2 - 3 and 5 - 7 of this Act take effect immediately
24 in accordance with AS 01.10.070(c).

25 * Sec. 33. Sections 4, 10, 27, 28 and 29 of this Act take effect
26 immediately in accordance with AS 01.10.070(c) and are retroactive to
27 January 1, 1978.

28 * Sec. 34. Section 23 of this Act takes effect immediately in accord-
29 ance with AS 01.10.070(c) and is retroactive to March 3, 1977.